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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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7 BERNARDO MENDIA,

8 Plaintiff,

9 v.

10 COUNTY OF CONTRA COSTA,

11 Defendant.

Case No. [4:19-cv-03193-KAW](#)

**SECOND ORDER TO SHOW CAUSE;
ORDER CONTINUING CASE
MANAGEMENT CONFERENCE**

Re: Dkt. No. 11

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On June 7, 2019, Plaintiff Bernardo Mendoza filed this action. Plaintiff failed to timely complete service of the complaint and summons by September 5, 2019, and, on September 27, 2019, the undersigned issued an order to show cause why this matter should not be dismissed for failure to comply with the deadline to complete service on Defendant or to file a motion for administrative relief from the deadline pursuant to Civil L.R. 7-11. (Dkt. No. 9.) Plaintiff was also ordered to serve Defendant and file a proof of service by October 15, 2019. *Id.*

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On October 15, 2019, Plaintiff filed a response to the order to show cause, and explained that he was seeking the assistance of counsel to prosecute this action and was in the process of obtaining additional facts regarding his claims before filing a first amended complaint. (Dkt. No. 10 at 1.) Plaintiff then requested that he be permitted to file a first amended complaint by November 15, 2019. *Id.* at 2.

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Pursuant to Federal Rule of Civil Procedure 15(a)(1)(A), Plaintiff may amend his complaint once as a matter of course within 21 days of serving the original complaint. Since Plaintiff had not served the original complaint, he did not need to obtain leave of court to file his first amended complaint. Plaintiff did, however, require the Court's permission for an extension of time to complete service of the operative complaint and summons on the defendants. Since

1 Plaintiff is pro se, the Court construed his request for leave to file an amended complaint as a
2 request for an extension of time to serve Defendant(s), and discharged the order to show cause on
3 October 25, 2019. (Dkt. No. 11.) In discharging the order to show cause, the Court gave Plaintiff
4 until December 16, 2019 “to serve his operative complaint—which may be a first amended
5 complaint or the original complaint—on Defendant(s).” *Id.* at 2. Plaintiff was “reminded that he
6 must file a certificate of service on the docket after service is effectuated.” *Id.* Plaintiff was
7 further advised that should additional time be required to complete service, he would be
8 responsible for affirmatively seeking relief from the deadline by filing a motion for administrative
9 relief pursuant to Civil L.R. 7-11. *Id.* Plaintiff was cautioned that the “[f]ailure to do so may result
10 in the case being reassigned to a district judge with the recommendation that it be dismissed
11 without prejudice for failure to prosecute.” *Id.* The Court then continued the initial case
12 management conference to February 4, 2020, such that case management statements were due on
13 or before January 28, 2020. *Id.*

14 Plaintiff never filed a first amended complaint. Also, to date, Plaintiff has not filed a
15 certificate of service to show that the defendants have been served with the operative complaint,
16 which is currently the original complaint, nor has he filed an administrative motion to extend the
17 deadline to complete service as required by Civil L.R. 7-11. Furthermore, Plaintiff did not file a
18 case management statement by January 28, 2020, as required by both the October 25, 2019 order
19 and the undersigned’s standing order. (See Judge Westmore General Standing Order ¶ 8.)

20 Accordingly, IT IS HEREBY ORDERED that, by no later than **February 21, 2020**,
21 Plaintiff shall show cause why this matter should not be dismissed for failure to comply with the
22 deadline to complete service on Defendant or to file a motion for administrative relief.
23 Additionally, Plaintiff shall serve Defendant and separately file a proof of service by February 21,
24 2020. Plaintiff is advised that the failure to timely respond to this order to show cause and file a
25 certificate of service **will** result in this case being reassigned to a district judge with the
26 recommendation that it be dismissed without prejudice for failure to prosecute.

27 In responding to the second order to show cause, Plaintiff may wish to contact the Federal
28 Pro Bono Project’s Help Desk for assistance—a free service for pro se litigants—by calling (415)

1 782-8982. Plaintiff may also wish to consult a manual the court has adopted to assist pro se
2 litigants in presenting their case. This manual, and other free information for pro se litigants, is
3 available online at: <http://cand.uscourts.gov/proselitigants>.

4 Finally, the February 4, 2020 case management conference is continued to **April 14, 2020**
5 at 1:30 p.m. in Courtroom 4, 1301 Clay Street, 3rd Floor, Oakland, California. Case management
6 statements are due on or before April 7, 2020.

7 IT IS SO ORDERED.

8 Dated: January 30, 2020


9 KANDIS A. WESTMORE
10 United States Magistrate Judge

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